

**Before the  
New Hampshire Real Estate Commission  
Concord, New Hampshire 03301**

**In The Matter Of:** **Docket No.: 2012-002**  
**New Hampshire Real Estate Commission v. Michael T. Greiner & Gary F. Bisha,**  
**dba: My Castle Realty**  
**(Adjudicatory/Disciplinary Proceeding)**

**FINAL DECISION AND ORDER**

Before the New Hampshire Real Estate Commission ("Commission") is an adjudicatory/disciplinary proceeding In the Matter of Michael T. Greiner ("Respondent Greiner" or "Mr. Greiner") and Gary F. Bisha ("Respondent Bisha" or "Mr. Bisha") dba: My Castle Realty, in Docket Number 2012-002.

**Background Information:**

On July 29, 2011, Respondent Bisha dba: My Castle Realty, a licensed broker in Texas and Respondent Greiner, a licensed real estate agent in Texas, entered into an Exclusive Listing Agreement with Winona Jaskolka to list property located at 96 Woodland Heights in Grantham, New Hampshire without a New Hampshire real estate license. On January 11, 2012, the Commission's Investigator Ann Flanagan initiated Complaint File No. 2012-002 against Respondents. Subsequent to an investigation, on December 21, 2012, the Commission issued a Notice of Hearing for a Cease & Desist hearing scheduled for January 15, 2013.

On Tuesday, January 15, 2013, at 11:32 a.m., the Commission commenced the adjudicatory/ disciplinary hearing in the above captioned matter. Commission members present<sup>1</sup> were:

David C. Dunn, Commissioner, Presiding Officer  
William E. Barry, Commissioner  
Paul A. Lipnick, Commissioner  
James R. Therrien, Commissioner

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<sup>1</sup> These same Commission members also deliberated and voted on this Final Decision and Order.

The prosecution was conducted by Ann Flanagan, the Commission's Investigator. Mr. Bisha and Mr. Greiner were not present and were not represented by an Attorney.

The following exhibits were introduced into evidence and accepted into the record:

- Complainant Investigator Flanagan's Exhibits:  
Exhibit #1 - Complaint File 2012-002; pages 1-24.
- Respondents' exhibits: none were introduced.

No witnesses were present to testify at the hearing.

#### Findings of Fact:

In light of the testimony and exhibits, the Commission finds the following facts:

1. Respondent Greiner and Respondent Bisha failed to appear at the New Hampshire Real Estate Commission hearing scheduled for January 15, 2013 at 9:30 a.m. The Notice of Hearing was sent to Respondent Greiner by U.S. Certified Mail Receipt #70110110000181831531 and to Respondent Bisha by U.S. Certified Mail Receipt #70110110000181831531 on December 26, 2012, and both Respondents were sent the Notice of Hearing by U.S. First Class Mail on December 27, 2012. The US Postal Service tracking record showed that the certified mail left the sort facility in Houston, Texas for delivery to Respondents on January 5, 2013, but did not show whether the certified mailings were received by the Respondents. The Notices of Hearing sent to the Respondents by U.S. First Class Mail were not returned to the Commission as undeliverable and it was determined by the Commission that proper notice as required by RSA 331-A:30 was provided to the Respondents. In accordance with Rea 205.11, the presiding officer declared Respondents to be in default and proceeded to hear the testimony and receive the evidence offered by the party bearing the burden of proof in this case, the Complainant New Hampshire Real Estate Commission through its Investigator Ann Flanagan. (Ex. 1, pg. 3-9).

2. Respondent Greiner dba: My Castle Realty, was licensed as a real estate salesperson in Texas, license #0588268 at the time of the allegations. Respondent Bisha was licensed as a broker in Texas, license #508227, and was Respondent Greiner's sponsoring broker at the time of the allegations. (Ex. 1, pg. 14).

3. Respondent Greiner dba: My Castle Realty was listing property located at 96 Woodland Heights in Grantham, New Hampshire through an Exclusive Listing Agreement, MLS #67562497. (Ex. 1, pg. 19, 20 & 22).

4. Respondent Bisha dba: My Castle Realty was Respondent Greiner's sponsoring broker at the time of the allegations.

5. Respondent Greiner and Respondent Bisha do not have a New Hampshire real estate license and did not have a New Hampshire license at the time of the listing, and My Castle Realty was not registered with the State of New Hampshire.

6. Respondents claimed what they were doing is legal in Texas; however the property is located in New Hampshire, so New Hampshire regulations would prevail.

**Relevant Law:**

**RSA 331-A:3 Prohibition.** It shall be unlawful for any person, directly or indirectly, to act as a real estate broker or real estate salesperson without a license and otherwise complying with the provisions of this chapter.

**RSA 331-A:22 Nonresidents.**

I. A nonresident of this state may become a broker or salesperson in this state by conforming to all of conditions of this chapter applicable to residents of this state.

II. Upon making application, such nonresidents shall file an irrevocable consent and power providing that legal actions may be commenced against them in the proper court of any county of this state in which a cause of action may arise or in which the plaintiff may reside by service of process or pleading authorized by the laws of this state on a member of the commission or its executive director, the consent or power stipulating that such service of process or pleading shall be taken in all courts to be valid and binding as if personal service had been made upon the nonresident in this state.

III. This section applies to nonresident license applicants only.

**RSA 331-A:22-a Practice by Brokers of Other Jurisdictions.**

I. No broker licensed in another jurisdiction shall list, offer, attempt, or agree to list real estate in this state for sale or lease unless the broker has acquired a license pursuant to RSA 331-A:22.

II. A broker licensed in another jurisdiction representing a buyer or tenant wherein the broker is not licensed under this chapter, may be actively involved in a real estate transaction in this state only if

the broker has entered into a cooperative brokerage agreement with a broker licensed under this chapter who shall represent the buyer or tenant according to this chapter.

III. No broker licensed in another jurisdiction who is not licensed under this chapter may act as a broker with a buyer or tenant unless the broker is working on behalf of and under the license of a broker licensed under this chapter.

IV. The commission shall adopt rules pursuant to RSA 541-A relative to cooperative brokerage agreements under this section. Such rules shall include:

- (a) The form and content of a cooperative brokerage agreement.
- (b) The length of time an agreement may be effective.
- (c) The procedure for extension or early termination of an agreement.
- (d) Any fees which may be associated with a cooperative brokerage agreement.
- (e) The penalty, in addition to any other penalty under this chapter, for violation of the rules concerning cooperative brokerage agreements, and the procedure to appeal the commission's ruling.
- (f) Any other matter necessary for the implementation and administration of this section.

**RSA 331-A:34 Penalty.** Any person acting as a real estate broker or real estate salesperson, without a license, shall be guilty of a class A misdemeanor if a natural person, or guilty of a felony if any other person.

#### **Rulings of Law:**

Respondent Greiner, a licensed salesperson in Texas and Respondent Bisha, a licensed broker in Texas acted as a real estate broker or salesperson in the State of New Hampshire without a New Hampshire real estate license when Respondents listed property located at 96 Woodland Heights, Grantham, New Hampshire through an Exclusive Listing Agreement, in violation of RSA 331-A:3; 331-A:34; and RSA 331-A:22-a. (Notice of Hearing, paragraphs 5A-5D).

#### **Disciplinary Action:**

Based upon the Findings of Facts and Rulings of Law above, the Commission has voted to order the following:

IT IS **ORDERED** that the Respondents cease and desist all real estate brokerage activity in New Hampshire which requires a New Hampshire real estate license. Failure to comply with this Cease & Desist Order will result in the Commission forwarding the matter to the proper authorities for criminal prosecution.

IT IS **FURTHER ORDERED** that the Respondent's failure to comply with any terms or conditions imposed by this Final Decision and Order shall constitute unprofessional conduct pursuant to RSA 331-A:26, XXIX, and a separate and sufficient basis for further disciplinary action by the Commission against the Respondent.

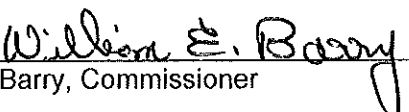
IT IS FURTHER ORDERED that this Final Decision and Order shall become a permanent part of the Respondent's disciplinary file, which is maintained by the Commission as a public document.

IT IS FURTHER ORDERED that if this decision is not appealed within 30 days of the effective date, it shall become final. See RSA 331-A:28, III ("The action of the commission in revoking, suspending, or denying a license or accreditation, or levying a fine, shall be subject to appeal to the superior court at the instance of the licensee or an accredited individual, institution, or organization, within 30 days after the filing of the commission's decision...").

IT IS FURTHER ORDERED that this Final Decision and Order shall take effect as an Order of the Commission on the date the Commission signs it.

  
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David C. Dunn, Presiding Officer

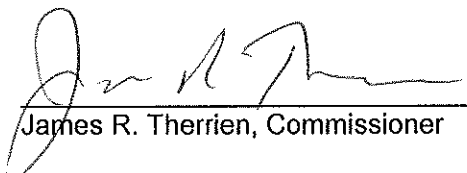
4/16/2013  
Date

  
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William E. Barry, Commissioner

4/16/2013  
Date

  
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Paul A. Lipnick, Commissioner

4-16-13  
Date

  
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James R. Therrien, Commissioner

04/16/2013  
Date

\*\ Daniel S. Jones, Commission member, (case evaluator) recused.